IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.185 OF 2007

Ravi Shrikant Pittie ..Petitioner.

Vs.

Sheetal Ravi Pittie
& Ors. ..Respondents.

Mr.R.V.Govilkar for the Petitioner.

Mr.R.A.Thorat with Mr.Himanshu V. Kode for Respondent No.1.

CORAM : A.S. OKA, J.
DATED : 11TH JUNE, 2006

P.C. :

Heard the learned Advocates appearing for the parties.

2. The Revision Applicant is the first Respondent who has taken exception to the order dated 11th April, 2007 passed by the trial Court, by which the application made by the Revision Applicant under Rule 11 of Order VII of the Code of Civil Procedure, 1908 has been rejected.

3. In the application made by the Revision Applicant, three contentions were raised. The first one was that the suit property is not properly

described in the plaint filed by the first Respondent. The second contention is that the suit is not maintainable in view of the bar created by the Benami Transactions (Prohibition) Act, 1988. The third contention raised in the application is that the suit is not properly valued for the purpose of Court fees.

4. The learned Judge was right in holding that the plaint cannot be rejected on the ground that the suit property is not properly described.

5. In so far as the second contention is concerned, though no case was made out for rejection of the plaint, the said contention ought to have been kept open which could have been considered after framing of issues.

6. In so far as the issue regarding the valuation of the suit is concerned, on a plain reading of the plaint, at this stage, it cannot be said that the suit is not properly valued. However, an enquiry as contemplated by section 8 of the Bombay Court Fees Act, 1939 will have to be held for determining whether the suit is properly valued. Only after

holding the said enquiry, the trial Court can pass appropriate orders in that behalf.

7. It is always open to the Revision Applicant to raise appropriate contentions in the written statement.

8. In view of the aforesaid discussion, the Civil Revision Application is disposed of by passing the following order :-

i) The rejection of the application made by the Revision Applicant is confirmed.

ii) It is made clear that all issues raised in the Revision Application save and except the issue regarding proper description of the suit property are expressly kept open, to be decided at the appropriate stage, as indicated in the judgment.

iii) There will be no order as to costs.

(A.S. OKA, J.)